

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Douglas S. Flagg,

Civ. File. No. 05-2180 (PAM/RLE)

Petitioner,

v.

MEMORANDUM AND ORDER

Warden of the Federal Medical
Center-Rochester,

Respondent.

This matter is before the Court on Respondent's objections to United States Chief Magistrate Judge Raymond L. Erickson's Report and Recommendation ("R&R") dated March 3, 2006. The R&R recommended that this Court grant Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and order Respondent to reconsider when Petitioner should be assigned to a community confinement center. The Court has conducted a de novo review of the Objections and the record. See 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b). After the review, the Court finds that the Magistrate Judge correctly found the February 2005 Rules invalid. See Hayek v. Caraway, 2005 WL 3334600 (D. Minn. Dec. 7, 2005). Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Petitioner's Application for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Docket No. 1) is **GRANTED**;
2. Petitioner's Motion for Expedited Review (Docket No. 2) is **GRANTED**;
3. The R&R is **ADOPTED** (Docket No. 16); and

4. Respondent is directed to reconsider the date when Petitioner should be assigned to a community confinement center in light of the criteria set forth in 18 U.S.C. § 3621(b) and without regard to 28 C.F.R. §§ 570.20 and 570.21.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 23, 2006

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge